

Text Amendment Application No.
Boston Redevelopment Authority
Minor changes to various
sections

To the Zoning Commission of the City of Boston:

The Boston Redevelopment Authority hereby petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows:

1. By striking out in clause (21) of Section 2-1, respecting the meaning of certain words and phrases, all the words following "but excluding" and by inserting in place thereof the following words:

basement and cellar areas devoted exclusively to uses accessory to the operation of the structure and not excluding such areas used as habitable space.
2. By striking out in clause (3B) of Section 2-1 the number "(3B)" and by inserting in place thereof the following number:

(3C)
3. By inserting below clause (3A) in Section 2-1, respecting the meaning of certain words and phrases, the following clause:

(3B) "Basement", that portion of a building which is not used or designed to be used for human occupancy, and which is partly or completely below grade (see also clause (43), "Story above grade").
4. By striking out clause (22) of Section 2-1, respecting the meaning of certain words and phrases, and by inserting in place thereof the following clause:

(22) "Grade", a reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level is away from the exterior walls, the reference plane shall be established by the lowest points within the area

between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

5. By striking out clause (23) of Section 2-1, respecting the meaning of certain words and phrases, and by inserting in place thereof the following clause:

(23) "Height of building", the vertical distance from grade to the top of the roof beams of a flat roof, or the mean level of the highest gable or slope of a hip roof, excluding roof structures and penthouses normally built above the roof, not devoted to human occupancy and the total area of which does not exceed 33-1/3 percent of the roof. A mansard roof shall be considered a flat roof.

6. By inserting below clause (32) in Section 2-1, respecting the meaning of certain words and phrases, the following clause:

(32A) "Mansard roof", a sloping roof having a pitch of more than sixty (60) degrees to the horizontal. The floor under a mansard roof shall be considered a story as defined in clause (42).

7. By striking out clause (42) of Section 2-1, respecting the meaning of certain words and phrases, and by inserting in place thereof the following clause:

(42) "Story", that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

8. By striking out clause (43) of Section 2-1, respecting the meaning of certain words and phrases, and by inserting in place thereof the following clause:

(43) "Story above grade", any story having finished floor surface entirely above grade except that a basement shall be considered a story above grade if the finished surface of the floor above the basement is more than six (6) feet above grade for more than fifty (50) percent of the total perimeter or more than twelve (12) feet above grade at any point.

9. By inserting below clause (43) of Section 2-1, respecting the meaning of certain words and phrases, the following clause:
- (43A) "Story, first", The lowest story above grade (see clause (43), "Story above grade").
10. By inserting below clause (43A) in Section 2-1 the following clause:
- (43B) "Story, half", a story used or designed to be used for human occupancy, that has a floor area measured four (4) feet vertically from the floor of not more than one-half ($1/2$) the area of the floor next below and in which the ceiling area at a height of seven and one-third ($7-1/3$) feet above the floor is a minimum of one-third ($1/3$) the area of the floor next below.
11. By inserting in Section 8-7, use Item 72A, between the words "in the case of a swimming pool" and the word "that", the following phrase:
- is protected by a six-foot-high fence with a gate which is locked from the outside, and
12. By striking out in Section 13-3, respecting nonconformity as to dimensional requirements, the following words:
- conforms to such dimensional requirements.
- and by inserting in place thereof the following words:
- does not add any new dimensional nonconformities. However, the floor area ratio requirement, as stated in Section 15-1, the open space requirement, as stated in Section 17-1, and the parking requirement, as stated in Article 23, must be complied with.
13. By inserting in Section 13-3, respecting nonconformity as to dimensional requirements, after the following words: "conforms to such dimensional requirements." the following words:
- However, the floor area ratio requirement, as stated in Section 15-1, the open space requirement, as stated in Section 17-1, and the parking requirement, as stated in Article 23, must be complied with.

14. By striking out in the title to Section 13-4, respecting dimensional requirements of dwellings in business districts, the word "Business" and by inserting in place thereof the word "Non-residential".
15. By deleting in Section 13-4, respecting dwellings in nonresidential districts, following the words, "Any dwelling in an L" the words, or "or B", and inserting in place thereof the words, ", B, M, I or W
16. By inserting at the end of Section 23-3, respecting off-street parking, the following clause:

Notwithstanding the definition in Section 2-1, the gross floor area used in computing the off-street parking facilities required by this section, shall include all areas below grade and in basements that are used for human occupancy including storage areas for the business and excluding mechanical areas. Floor area used to meet the off-street parking requirements of this code shall not be included in the gross floor area for purposes of this section.
17. By striking out in Section 23-6, respecting off-street parking requirements, clauses (b) and (c).
18. By inserting in Section 23-7A, respecting off-street parking following the words, "is altered or extended so as to increase its gross floor area or the number of dwelling units," the following words:

and so as to maintain the existing use

19. By inserting at the end of Section 24-3, respecting off-street loading bays, the following clause:

Notwithstanding the definition in Section 2-1, the gross floor area used in computing the loading bay facilities required by this section, shall include all areas below grade and in basements that are used or designed to be used for human occupancy including storage areas for the business and excluding mechanical areas. Floor area used to meet the off-street loading bay requirements of this code shall not be included in the gross floor area for purposes of this section.

Petitioner: Boston Redevelopment Authority

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MEMORANDUM

AUGUST 14, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: LINDA BOURQUE, DIRECTOR OF ZONING
GAY FORBES, COUNSEL

SUBJECT: REQUEST AUTHORIZATION TO PETITION THE ZONING
COMMISSION TO ADOPT TECHNICAL CHANGES TO THE
ZONING CODE

I. Background:

In October 1985 Boston Redevelopment Authority staff began a series of meetings with Commissioner Somers and staff members of the Inspectional Services Department. The purpose of these meetings was to ~~begin to clarify and update~~ certain technical aspects of the Boston Zoning Code.

An initial list of recommendations prepared by Inspectional Services staff was analyzed first by Boston Redevelopment Authority Legal and Zoning staff and then discussed and amended in conjunction with the Inspectional Services Department. Some issues were postponed for further study. In addition, the Boston Redevelopment Authority staff initiated other changes.

This group of amendments consists of minor technical definitional changes and additions which clarify and update the application of the Code. The rationale for the proposed changes follows, according to the subject matter of each, and the numbers correspond to the numbered paragraphs in the proposed amendment.

I. Amendments to Definitions or Titles

#1. Floor Area, Gross: The proposed definition is simple and clear, in comparison to the existing definition, and more easily used to calculate Floor Area Ratios. The proposed definition acknowledges that the purpose of the gross floor area ratio (FAR) is to regulate both the density the bulk of a structure above grade proportional to the lot area. The proposed amendment excludes from the definition of Gross Floor Area those areas below grade which are not used or intended for use as habitable space. The amount of floor area below grade is not of consequence for this purpose except when it is used as habitable space and has an impact on density.

#2-3. Basement: The proposed definition will bring the Zoning Code into conformity with the new Massachusetts State Building Code.

#4. Grade: The proposed definition will bring the Zoning Code into conformity with the new Massachusetts Building Code. It also removes the conflict between the existing definitions of "Grade" and "Height of Building".

#5. Height of Building: The proposed definition conforms to the New Massachusetts Building Code and removes the conflict between the existing definitions of "Height of Building" and "Grade".

#6. Mansard Roof: The addition of this definition is necessary to clarify application of the Zoning Code to mansard roofs and the floors under mansard roofs.

#7-10. Story; Story above grade, Story; Half: The proposed definitions clarify distinctions between three categories of story, and conform to the new Massachusetts Building Code.

#14. The amendment of the word "Business" to "Non-Residential" reflects the actual meaning and operation of Section 13-4.

II. Amendments #1 Regarding Non-Conformities as to Dimensional Requirements.

#12 Section 13-3. These changes will eliminate a substantial number of routinely approved Board of Appeal cases by basing dimensional requirements on the existing dimensions of a non-conforming use. Pursuant to these amendments, as long as an owner does not expand beyond existing rear, front, and sideyard dimensional nonconformities, it is not necessary to apply to the Board of Appeal for approval of these dimensional conformities. However, the floor area ratio requirement, as stated in Section 15-1, the open space requirement, as stated in Section 17-1, and the parking requirement, as stated in Article 23, must be complied with. An example of the effect of these amendments is where an existing sideyard dimension is only 8 feet, and the dimensional requirement for that building is 10 feet, a permit from the Board of Appeal for a dimensional deviation would not be required, as long as the new construction on the building does not exceed 8 feet.

#13. Section 13-3. This amendment clarifies the existing provisions allowing alterations and enlargements of existing dimensional non-conformities by requiring that any such alteration or enlargement must comply with floor area ratio, open space, and parking requirements. This addition to the existing language will mean that an existing non-conformity can be altered and enlarged only if the alteration conforms to applicable dimensional requirements and the floor area ratio, open space and parking requirements are complied with.

#15. Section 13-4. this section sets the lot area, open space, and yard requirements for dwellings, in nonresidential districts as those applicable to the nearest S, R, or H district. The existing standard applies only to local or general business districts. The reason for this technical amendment is to bring all zoning districts other than those that are residential within the purview of this section, including industrial as well as business districts.

#11. Section 8-7, use item 72A. The purpose of this amendment is to provide a visual and safety buffer around swimming pools by requiring a fence with a locked gate.

III. Off-Street Parking and Loading Requirements.

#16 to 18 and 19. These amendments are necessary to conform the calculation of off-street parking and loading requirements to the proposed definition of gross floor area. In addition, the proposed addition makes clear that parking requirements for alterations of pre-code structures are based on the alterations only when alterations maintain the existing use.

#17. Section 23.6. Many smaller developments have cumulative negative impacts on on-street parking congestion. This situation is aggravated by the fact that, under the existing Section 23.b(b), there is a waiver of parking requirements for residential conversions or construction when no more than two spaces are called for, and the FAR is greater than 0.5. The amendment to this section will eliminate that waiver.

VOTED: That the Director is hereby authorized to petition the Zoning Commission to adopt amendments to the Zoning Code in substantial accord with the amendments submitted to the Authority at its meeting on August 14, 1986. The Authority has determined that these amendments are necessary to maintain the orderly and consistent application and operation of the Zoning Code.

